

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA ,

Plaintiff,

11-cr-0412-01 (PKC)

-against-

ORDER

JOSE ANTHONY DELOS SANTOS,

Defendant.
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CASTEL, U.S.D.J.

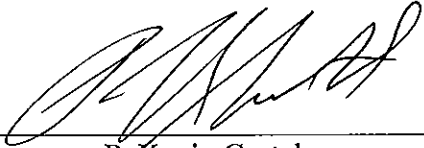
USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>6-26-15</u>

On May 18, 2012, the defendant was sentenced principally to a term of imprisonment of 66 months following his plea of guilty to charges relating to the Conspiracy to Distribute and Possess with Intent to Distribute Heroin, 21 U.S.C. 846, 841(b)(1)(C). The defendant now seeks a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

Effective November 1, 2014, the United States Sentencing Commission amended the United States Sentencing Guidelines Manual to lower the guidelines sentencing range for certain categories of offenses involving drugs. The Sentencing Commission also adopted an amendment to § 1B1.10 of the Guidelines authorizing, effective November 1, 2014, retroactive application of Amendment 782 to the drug guidelines. Section 1B1.10 specifies that the Court is not permitted to reduce a defendant's sentence to a term of imprisonment lower than the bottom of the amended guidelines range. U.S.S.G. § 1B1.10(b)(2)(A). This limitation applies even if the Court originally imposed a below-guidelines sentence, unless the original sentence was imposed based on the defendant's substantial assistance to the government. U.S.S.G. § 1B1.10(b)(2)(B).

The Probation Department advises that the original term of imprisonment imposed on the defendant at sentencing, 66 months' imprisonment, is lower than the amended guidelines range, and the defendant's original sentence was not imposed based upon substantial assistance. The defendant's motion is DENIED.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
June 25, 2015